

State of Arizona Department of Financial Institutions



“DFI”



WEDNESDAY, SEPTEMBER 10, 2008

GOVERNOR'S HOUSING FORUM

STOP THE MADNESS!

Felecia A. Rotellini, Superintendent

WWW.AZDFI.GOV

Who DFI Regulates in the Mortgage Lending Industry

- Commercial Mortgage Bankers *(13)*
- Escrow Agents *(108)*
- Mortgage Bankers *(438)*
- Mortgage Brokers *(1,483)*

All Licenses Current as of August 12, 2008

Foreclosure Update

Nationally

- 1 in every 171 households in foreclosure (2nd Quarter '08)
- State Rankings: NV, CA, AZ (2nd Quarter '08)
- 2.5 million will enter foreclosure in 2008
- 1.5 million entered foreclosure in 2007

Source: Realty Trac, Inc.

Foreclosure Update

Arizona

- 1 in every 70 households in foreclosure
- Metro Phoenix: Notices of Trustee Sale

December 2007	3,800
June 2008	6,900
July 2008	6,400 (first decline)

Foreclosure Update

Metro Phoenix: Actual Foreclosure Sales

June 2008	3,700
July 2008	4,100

Sources: Realty Trac, Inc.; Arizona Republic (8/10/08)

Foreclosure Update

What Should A Borrower in Trouble Do:

1. Call your lender/servicer
2. Call the Arizona Toll-Free Number for counseling assistance (877) 448-1211
3. Call the Arizona Department of Financial Institutions Toll-Free Number: (800) 544-0708

“Don’t Delay, Call Today”

Foreclosure Update

Events Co-Sponsored by the Arizona Foreclosure Prevention Task Force:

- March 1 – City of Avondale
- March 29 – Pima County/City of Tucson
- April 12 – City of Apache Junction
- May 10 – City of Phoenix
- June 28 – Pima County/City of Tucson
- September 18 – City of Sierra Vista
- September 20 – City of Queen Creek
- September 27 – Pima County
- September 3 – City of Surprise
- October 11 – City of Maricopa (tentative)

Foreclosure Update

Recommended Websites:

- Governor's Family Economic Relief program for a wide array of State programs designed to help – www.az211.gov
- Governor Janet Napolitano – www.azgovernor.gov
- Arizona Department of Financial Institutions – www.azdfi.gov
- Arizona Department of Housing – www.housingaz.com
- City of Phoenix – www.cityofphoenix.gov

Categories of Mortgage Fraud

- **Fraud for Property**

Overstated Income

Overstated Assets

- **Fraud for Profit**

**Acquire & dispose of property for
Inflated Profits**

- **can affect neighborhoods and entire communities, usually involves investors and accomplices**

RED FLAGS



RED FLAGS

If your home has been on the market for 3 - 6 months ... You are a target!

- Receive offer \$90,000 above listing price
- \$90,000 goes to a third party for alleged upgrades
- \$90,000 Cash-Out at closing

How Cash-Back Works

1. A homeowner puts a house on the market for \$525,000.
2. A buyer offers to pay \$125,000 above the asking price but wants the extra cash back.
3. The buyer's appraiser inflates the home's value to qualify for the larger loan. The seller is told the money will be used for repairs or is offered a cut of the money.

How Cash-Back Works ...

4. The loan is funded and the seller gives the buyer the \$125,000.
5. Property records list the inflated-sale figure. This becomes a sales benchmark or "comp" that others in the neighborhood use to price their homes.
6. The buyer will often let the house fall into foreclosure or repeat the fraud.

Residential Mortgage Fraud as a Separate Type of Crime

In January of 2007, Sen. Jay Tibshraeny introduced Residential Mortgage Fraud legislation.

On June 13, 2007, Governor Napolitano signed the HB 2040 making residential mortgage fraud a class 2 or 4 felony. Effective September 19, 2007:

The law, A.R.S. § 13-2320, provides a path from investigation to prosecution, conviction, and sentencing of persons engaged in the specific crime of mortgage fraud.

A.R.S. § 13-2320 Residential Mortgage Fraud

Class 4 Felony

An offense involving residential mortgage fraud

Class 2 Felony

A pattern of residential mortgage fraud or conspiracy to engage or participate in a pattern of residential mortgage fraud

**DFI refers mortgage fraud cases for criminal prosecution.
DFI is an administrative agency.**

Members of Mortgage Fraud Task Force

- AZDFI Investigators & Examiners
- FBI Agents
- IRS Agents – Criminal Division
- Attorney General Investigators
- Various Cities – Police Officers
- County Prosecutor & Sheriff Depts
- AZ Dept of Real Estate Investigators
- HUD OIG Investigators & Auditors
- Social Security Administration OIG Investigators
- ICE
- Freddie Mac Investigators

NMLS – Nationwide Mortgage Licensing System

- The Conference of State Bank Supervisors (CSBS) in cooperation with the American Association of Residential Mortgage Regulators (AARMR) established the State Regulatory Registry LLC (SRR) on September 21, 2006.
- SRR operates the Nationwide Mortgage Licensing System.
- The Nationwide Mortgage Licensing System (NMLS) is a web-based system that allows state licensed mortgage lenders, mortgage brokers, and loan originators to apply for, amend, update or renew a license online for all participating state agencies.

NMLS – Nationwide Mortgage Licensing System

- The fourteen states currently using NMLS are Connecticut, Louisiana, Mississippi, North Carolina, New Hampshire, Vermont, Idaho, Iowa, Kentucky, Massachusetts, Nebraska, New York, Rhode Island and Washington.
- To date, 42 state agencies representing 40 states have committed to participate in the NMLS.
- Arizona will participate in the NMLS in 2009.

Loan Originators Licensing – AZ - 2008

- Beginning January 1, 2010, a natural person shall not act as a loan originator unless licensed under this article.
- Beginning January 1, 2010, the Superintendent shall not grant a loan originator license to a person other than a natural person. An applicant for an original loan originator's license shall have done both the following:
 1. Satisfactorily completed a course of study for loan originators approved by the superintendent during the year immediately preceding the time of application. *This paragraph does not apply if a person proves satisfactorily to the department that the person has at least three years of loan originator experience that is immediately preceding the time of application.*
 2. Passed a loan originator's examination pursuant to section 6-991.07 not more than one year before the granting of the license.

Loan Originators Licensing – AZ - 2008

- Beginning January 1, 2010, a person is not entitled to receive compensation in connection with arranging for or negotiating a mortgage loan if the person is not licensed pursuant to this chapter, notwithstanding section 6-984, subsection b, a loan originator shall not pay compensation to, contract with or employ as an independent contractor a person who is acting as a loan originator, mortgage broker, mortgage banker or commercial mortgage banker but who is not licensed under this chapter.

S.A.F.E Mortgage Licensing Act of 2008

- Signed into Federal Law July 30, 2008
- **Sec. 1504:**
- (a) In General ... an individual may not engage in the business of a loan originator without first –
 1. obtaining, and maintaining annually –
 - (A) a registration as a registered loan originator; or
 - (B) a license and registration as a State licensed loan originator; and
 2. Obtaining a unique identifier.
- (b) (2) Independent contractors may not engage in residential mortgage loan origination activities as a loan processor or underwriter unless as a State-licensed loan originator.

S.A.F.E Mortgage Licensing Act of 2008

- **Sec. 1505:** Applicant must submit to NMLS (i) fingerprints for national criminal background check by FBI & state, (ii) personal history, experience, independent credit report, information about administrative, civil or criminal findings by any governmental jurisdiction, (iii) prove pre-licensing education requirements have been passed; and (iv) meet net worth or surety bond requirement of Sec. 1508(d)(6).

S.A.F.E Mortgage Licensing Act of 2008

- **Sec.1508:** Secretary of HUD must determine that state's licensing law meets minimum requirements including:

Requiring licensees to pass a written test following 20 hours of pre-licensing educational requirements that must include:

- 3 hours Federal law and regulations,
- 3 hours of ethics related to fraud, consumer protection, and fair lending issues, and
- 2 hours related to nontraditional mortgage product marketplace

All courses must first be reviewed and approved by NMLS.

S.A.F.E Mortgage Licensing Act of 2008

State law must, in addition, require the following:

- applicants must obtain a “unique identifier” from NMLS,
- licensing of loan originators,
- each applicant must submit to NMLS a credit report, personal history, and undergo a FBI fingerprint check for a national criminal history background check,
- a minimum net worth or bonding of loan originators that reflects the dollar amount of loans originated by the loan originator,
- a mechanism for assessment of civil money penalty for individuals acting as mortgage originators without a valid license or registration, and
- a process for challenging information in NMLS and reporting violations, enforcement actions and other relevant information to NMLS.